

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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PHILIP E. MODELLE and OSCAR S. GRICE,

Plaintiffs,

vs

9:08-CV-1042

DAVID FAURO, Sheriff; MIKE SMITH, Major;  
and KEVIN LAURIN, Lt., Each of Clinton County  
Jail,

Defendants.

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APPEARANCES:

OF COUNSEL:

PHILIP E. MODELLE  
08-A-2310  
Plaintiff, pro se  
UpState Correctional Facility  
PO Box 2001  
309 Bare Hill Road  
Malone, New York 12953

OSCAR S. GRICE  
08-A-6396  
Plaintiff, pro se  
Attica Correctional Facility  
PO Box 149  
Attica, New York 14011

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226 Great Oaks Boulevard  
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THOMAS K. MURPHY, ESQ.

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiffs, Philip E. Modelle and Oscar S. Grice, brought this civil rights action in September 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated January 27, 2010, George H. Lowe, United States Magistrate Judge, recommended that defendants' motion for summary judgment (Docket No. 61) be granted; and plaintiff Modelle's motion for summary judgment (Docket No. 38) be denied. Only plaintiff Modelle filed objections to the Report-Recommendation.

Based upon a de novo review of the entire file, including the portions of the Report-Recommendation to which plaintiff Modelle objected, and the recommendations of magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

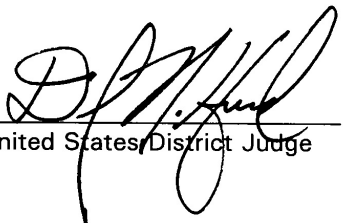
Accordingly, it is

ORDERED that

1. Defendants' motion for summary judgment (Docket No. 61) is GRANTED;
2. Plaintiff Modelle's motion for summary judgment (Docket No. 38) is DENIED;
3. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: February 18, 2010  
Utica, New York.

  
United States District Judge